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Remarks/Arguments

Applicant would like to thank the examiner for the thorough review of the present application.

Original Claims are Patentable

No prior art of record renders obvious applicant's claimed tie straps and bag body as separate elements because Simonsen's intended function is to provide a garbage bag with integrally formed tie straps as part of the body of the bag whereas applicant's specifically claims separate tie straps connected to the bag, which teaches against Simonsen's intended function. Simonsen states, "the need for separate tie members, however, adds an additional cost factor for the manufacturer, and ultimately, the consumer. In addition, separate tie members are easily lost and hence a nuisance for the consumer. The present invention seeks to overcome these problems by providing a polymeric package having integrally formed flanges for tying as well as a second integrally formed closure mechanism. Such bags are capable of being formed from an endless tube of plastic and thus can be produced efficiently and cheaply" (column 1, lines 40-48). If Simonsen employed separate tie straps, as claimed by the applicant, it would defeat its intended function of providing more secure tie straps that are integrally formed with its body.

Furthermore, one skilled in the art understands there is no teaching, suggestion or motivation to protect Simonsen's bag from insects, as reasoned by the examiner. Simonsen specifically teaches the following: "the polymeric packages or bags of the instant invention are manufactured using conventional extrusion and heat sealing techniques" (column 5, lines 14-22). Conversely, Farquharson teaches, "the compositions of the present invention are preferably prepared by dry blending together low-density polyethylene and a copolymer such as ethylene/acrylic acid, and then by adding the O-halopyridyl phosphate insecticide, the UV stabilizer and the pigment. The dry blend is heated to a temperature below the melting temperature of either polymer in the blend but above the melting point of the O-halopyridyl phosphate insecticide to absorb the said insecticide onto the polymer blend." Thus, based upon the teachings of

both references, one skilled in the art understands that Simonsen's bag would have to made by using Farquharson's manufacturing techniques in order to impregnate insecticides into its body. Unfortunately, Farquharson's manufacturing technique is counter intuitive to Simonsen's intended purpose of providing integrally formed tie-straps with the bag because Farquharson's technique is more costly and would prohibit Simonsen from forming a series of continuous bags in a roll with the tie straps integrally formed therewith by using a cutting knife to perforate the shape of the tie straps, due to the high temperature exposure during manufacture. Such a temperature would inherently warp the tie straps and prevent continuous and integrally formed tie straps as taught by Simonsen.

Response to Arguments

Applicant respectfully disagrees with the examiner's interpretation that Simonsen's integrally attached straps meet the limitation of applicant's claims; tie straps that are separate elements from the body. One skilled in the art understands that the claims, independent of the specification, necessarily require the tie straps to be separate elements from the body of the bag. Therefore, Simonsen's integrally formed straps and body does not meet applicant's claimed recitation.

While Farquharson may provide some teaching of using conventional extrusion technique to create a bag, one skilled in the art understands Farquharson's dry blending of low-density polyethylenes and a copolymer would have little likelihood of success with Simonsen's heat sealing techniques because such dry blending of polyethylenes and a copolymer would not properly absorb into the bag with Simonsen's heat sealing techniques due to Simonsen's high heat required during manufacture. In particular, column 5, lines 14-37 in Simonson describe how the manufacturing process requires the plastics to be melted and then extruded by a die. One skilled in the art understands in order to melt Simonsen's material, significantly high temperatures must be maintained. Such high temperatures are well above the 90 degree Celsius temperature critically required by Farquharson (see column 6, lines 10-13). Therefore, one skilled in the art understands that if Farquharson's polyethylenes and copolymer were heated to

the temperatures required by Simonsen, the polyethylenes and copolymer would become molecularly compromised and not absorb into the body of the bag as needed to provide their intended purpose.

In view of these considerations, it is respectfully submitted that the rejection of the pending claims should be considered as no longer tenable with respect to the above mentioned arguments. All pending dependent claims necessarily include the recitations of their independent claims and therefore are also in condition for allowance.

Should the examiner consider necessary or desirable to make formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by examiner's Amendment, if the examiner feels this would facilitate passage of the case to issuance. Alternatively, should the examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned attorney.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
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